



**DRAFT MEETING MINUTES**  
BOARD OF SUPERVISORS, COUNTY OF MONO  
STATE OF CALIFORNIA

**Special Meeting**  
**July 14, 2009**

Crowley Lake Community Center, Crowley Lake, CA 93546

<b>Recorded</b>	<b>Tapes: July 14, 2009, #1-3</b>
<b>Minute Orders</b>	<b>M09-164 through M09-164</b>
<b>Resolutions</b>	<b>R09-47 Not Used</b>
<b>Ordinance</b>	<b>Ord09-02 Not Used</b>

6:07 PM Meeting Called to Order by Chairman Reid  
Pledge of Allegiance led by Supervisor Hazard

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD**

Kai Day: Asked the Board to consider a policy protecting existing private wells when a water company drills a new well nearby. Also, Crowley Lake needs one mutual water company for the entire area rather than many separate companies. Lastly, residents need the opportunity to test their wells when a water company is testing; Day was not given this opportunity.

- Chairman Reid: The Board will relay this information to the Environmental Health Department.

**REGULAR AGENDA**

1a) BOARD OF SUPERVISORS  
Appeal of Grading Permit issuance (**Larry Payne (Appellant), Crowley Lake Mutual Water Company (Real Party in Interest), Staff**) - Consider appeal by Larry Payne, project neighbor, regarding issuance of Grading Permit GP08-12 to the Crowley Lake Mutual Water Company, pursuant to Mono County Code section 13.08.530.

**M09-164 Action:** Find that 1) issuance of the grading permit is consistent with the amended specific plan; and 2) does not require any further environmental review; based on these findings, deny the appeal.  
**Hunt/Bauer, 4-0; Hazard not present**

**Note**

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors

Marshall Rudolph, County Counsel: Read a prepared statement pertaining to his involvement in the hearing. Since he and Stacey Simon, Assistant County Counsel, previously acted as advisors or advocates with respect to the subject matter of this appeal, they would err on the side of caution and refrain from participating in the hearing. Allen Berrey, Assistant County Counsel, would instead act as the Board's legal advisor. Rudolph and Simon left the room.

Supervisor Hazard: Read a prepared statement about his past involvement in this matter while performing his role as District 2 Supervisor. Because of past statements, there could be a perception of bias. For this reason, Hazard decided to err on the side of caution and abstain from participating; he left the room.

Allen Berrey: Set the ground rules for all parties to follow. Either party can take this matter to court if they are not satisfied with the outcome; the record of this meeting will become part of the process. The board only has jurisdiction to decide whether or not the grading permit was issued properly. Other issues regarding the water tank have been brought up, but there are no grounds in the appeal other than the grading permit. The purpose of tonight's hearing is to decide whether the grading permit was properly issued. If proponents or opponents have provided information to the Board prior to this hearing (*ex parte* communications), such communications should be identified so it can be disclosed to the parties involved. After the evidence and testimony are presented, the Board will deliberate prior to making a decision. [Entered County Exhibit 1 (Co. 1)—Regular Agenda Request with supporting documentation.]

Chairman Reid: Outlined the order of presentation.

The Clerk of the Board administered an oath to those intending to present testimony or evidence.

#### Staff Presentations

Evan Nikirk, Public Works Director: Reiterated that this is a hearing to consider whether or not grading permit #GP08-12 was issued properly; he would object to any issues raised that did not pertain to the grading permit. [Entered County Exhibit 2 (Co. 2)—Approval Documents, Crowley Lake Estates Specific Plan Amendment #1, with sub-parts 1-14.] Nikirk outlined the process of issuing grading permits; he referred to specific parts of County Exhibit 2 as he explained the process and talked specifically about the grading permit in question.

Rick McManis, County Building Official: Discussed the design calculations of the tank. [Entered County Exhibit 3 (Co. 3)—Design Calculations for a Bolted Liquid Storage Tank.] Tanks are regulated by building codes. At the beginning of the permitting process, the project appeared not to conform; the Water Company worked with the Building Department to make sure the project would meet specifications. Exhibits confirm the elevation was lowered. McManis reviewed applicable codes and the process of checking plans. The tank complies with the County's specific plan and industry standards.

Garret Higerd, Public Works Department: Appurtenances are not generally counted in the height of the tank; this specific tank was addressed in the plan. [Entered County Exhibit 4 (Co. 4)—Letter dated December 23, 2008, addressed to Paul Roten, Re: Tank Elevation Review Comments, GP08-12 CLMWC.] Higerd referred to a letter from Triad/Holmes Associates addressed to Water Company board members pertaining to the tank; point #3 in the letter states clearly that, as shown, the tank is a 16-foot tank. [Entered County Exhibit 5 (Co. 5)—Letter from Triad/Holmes Associates dated February 26, 2009, addressed to Debra

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

Ray and Steve Bracket, Reference: Crowley Lake Mutual Water Company Water Tank.] Regarding landscaping, the Planning Commission approved a plan using native species.

#### Appellant Presentations

Larry Payne: PowerPoint presentation described the nature of his appeal. [Entered Payne Exhibit 1 (P1)—printed PowerPoint presentation titled “Appeal Hearing, July 14, 1009, Crowley Lake Community Center.] Payne talked about the site of the project, and said the tank was not accurately described in the specific plan that was approved by the Board. He raised questions about the elevation of the tank, its appurtenances, grading level, the survey, and landscaping. Payne showed photos of a model tank he built that was then situated on the site in order to show how the project would impact the view. He understood that the tank would be no higher than 16 feet, yet with the appurtenances, it will be 20 feet.

Kai Day: Residents were under the impression that the tank would be placed 8 feet below ground and 8 feet above ground, and would be surrounded by mature pine trees.

Robert Colt: Talked about how the model of the tank was created in order to give a realistic perspective.

Steve Kappos, representing Crowley Lake Mutual Water Company: Objected to Payne’s photos and renderings depicting the tank; he raised questions about the accuracy of the depictions.

Liz Fleming: 260 South Landing Road: Read comments from people who were unable to attend. [Entered Payne Exhibit 2 (P2)—copies of written comments received from Lanny and Susan Ludwick, Judy Cardwell, David Richman, James Kozak, and Kathy Skier.] Kappos objected to these comments since they did not refer to the grading permit. Fleming asked the Board to reconsider the issue of aesthetics.

***Break: 8:06 p.m.; reconvened 8:18 p.m.***

#### Crowley Lake Mutual Water Company Presentations

Steve Kappos: Addressed points raised by the Appellant.

- Surveys were done; all elevations were established; 8 feet of the tank was never required to be buried.
- The issue was thoroughly considered by County staff when approving the grading permit.
- The County hired Don Bauer to analyze the visual impacts of the tank; Bauer prepared renderings. Kappos referred to and read from a document discussing how the renderings were prepared. [Entered Crowley Lake Mutual Water Exhibit 1 (CLMW 1)—Declaration of Donald R. Bauer.] Kappos also referred to a declaration signed by Larry Johnston who personally reviewed and oversaw Bauer’s analysis in the field and in the office. [Entered Crowley Lake Mutual Water Exhibit 2 (CLMW 2)—Declaration of Larry K. Johnston.] Johnston confirms the tank elevation and grading plans.
- The tank’s outer edge is significant for visual purpose, not the actual top.
- Crowley Lake Mutual Water company is small (60 members), and exists only to supply water to the members; it is non profit and operates on the efforts of volunteers. Payne objected—does not pertain to the grading permit.
- Without this tank, water quality cannot be assured. This project also solves a critical problem of water pressure necessary for fire fighting purposes.

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

- The project was approved by the Planning Commission and the Board after lengthy consideration. The proposed tank is the correct volume, diameter, and the edge is 16 feet high when the site is graded.
- The Water Company has relied on the approval given 7 years ago, and has spent a lot of time and money to construct the project.
- The main focus of this complaint is the visual aspects of the tank, which were decided upon many years ago.
- Steve Brackett, member of the Water Company board, presented letters in support signed by members of the Water Company. [Entered Crowley Lake Mutual Water Exhibit 3 (CLMW 3)—signed letters from members in support of the project.]
- The Water Company remains flexible about the type of trees used for landscaping, and encourages opponents to provide suggestions.

#### Comments from the Audience

Paul Dostie, Water Company shareholder: Supports moving forward with the project; only 61 families are paying for this project and shouldn't have to bear added, unnecessary expenses.

John Pedersen, president of Water Company board when Planning Commission and Board of Supervisors considered the specific plan amendment for the tank: Urged the Board to deny the appeal; work was done properly and the issue was well heard. People were given a chance to contribute to the process and discuss the project; the water board worked hard on the process. Work done on the grading permit was proper.

Steve Shipley, District 2 Planning Commissioner (member of Planning Commission when this project was considered): The Planning Commission voted 3-2 for approval; Shipley voted against the project for aesthetic reasons. He did not think alternative sites were sufficiently researched, nor were the appurtenances addressed. The Water Company needs to abide by what was agreed to in the specific plan. The tank is necessary, but anything to mitigate the visual impact will be of benefit.

Troy Rowan: The tank will sit 15-20 feet away from Rowan's backyard fence; his property will be impacted the most. He was made aware of the tank in 2004, and the Water Company kept him informed throughout the process. He would like to see the project completed according to plans and specifications, and supported moving forward. (Rowan is not a Water Company shareholder, and he uses a private well.)

Ron Day: It is important to consider the visual impact of this tank; he asked the Board to consider a stipulation pertaining to aesthetics.

Fred Stump, Long Valley Fire District: Water pressure is currently not sufficient to operate fire hydrants; the tank would resolve this problem

#### Summation

Larry Payne: The added height with appurtenances was not thoroughly discussed. At the Planning Commission and Board meetings, the tank was described as being a total height of 16 feet. Payne requested a copy of the survey map, but it has not been provided; he would like the elevations investigated. He is not against the tank, but wants it installed at the approved elevation. Shareholders are being told changes will cost \$100,000; the cost will be about \$35,000. Emails and memos he referred to in his PowerPoint presentation don't specify that the height refers to just the edge of the tank. Dropping the center of the tank by 2 feet would solve the problem. Payne asked the Board to refer this back to the Planning Commission.

#### **Note**

**These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors**

Steve Kappos: Mr. Payne wants to re-litigate the issue, and that is not the purpose of tonight's meeting. The Water Company has complied with required changes. The overall height of the tank is not 3 feet higher than approved; the vent at the top and the gradual doming are appurtenances. Mr. Payne can get a copy of the survey from the Water Company. Lastly, the building height in this area is 35 feet, so someone could build a house that would block the view. Wherever the tank is located, it will be seen by someone.

Board Discussion

Supervisor Hunt: All the details and issues pertaining to this project were considered in 2002 by the Board of Supervisors during the specific plan process; the plan passed unanimously. There is a need for a good water source in the community. Even though appurtenances extend above 16 feet, staff provided information in 2002 that was sufficient enough to support approval. The crux of the issue is aesthetics. Hunt asked staff to ensure that landscaping is done in a way to make the project aesthetically agreeable. He supported denying the appeal so the project can proceed.

Supervisor Farnetti: Sat on the Board of Supervisors in 2002; this was a difficult decision. Considering the two issues addressed tonight by this appeal—1) was the grading permit as issued valid, and 2) is the tank consistent with the specific plan—nothing presented indicates otherwise. Farnetti agreed he did not know at the time of approval that the appurtenances would be higher than 16 feet, but tonight staff clarified this question. The tank should go forward. At the time the plan was amended, the Board did recognize the need to mitigate the visual impact of the tank.

Supervisor Bauer: Was not on the Board in 2002, so had no prior knowledge. Based on the information presented tonight, the tank is consistent with the amended specific plan; the proponents have made required changes. The opponent failed to prove his argument about elevation. She supported denying the appeal.

Supervisor Reid: Agreed with his fellow Board Members; the case was not made to uphold the appeal. However, he hoped the proponents would work with the community to mitigate the visual impact of the tank.

ADJOURN: 9:38 p.m.

§§§§§

**Note**

These draft meeting minutes have not yet been approved by the Mono County Board of Supervisors